

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT
Richmond, Virginia
(10/30/2007 - 11/02/2007 Session)

NUMBER AND STYLE

NATURE OF CASE

06-22

Bell v. Kelly
(Jones)

HABEAS CORPUS. Whether counsel provided ineffective assistance by failing to adequately investigate and present evidence in mitigation of punishment and whether this failure resulted in prejudice.

05-2432

Hall v. Metropolitan Life
(Conrad)

ERISA. Whether death following bee sting was result of accident and came within disease or physical impairment exclusion; standard of review issue.

06-1720

Cetto v. LaSalle Bank Natl
(Hilton)

CIVIL. Whether defendant is a "creditor" under the Home Ownership & Equity Protection Act.

PANEL I
COURTROOM ONE
Courthouse Room 412 (Red Carpet)
9:30 a.m.

TUESDAY, OCTOBER 30, 2007

REVD 10/5/07

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT
Richmond, Virginia
(10/30/2007 - 11/02/2007 Session)

NUMBER AND STYLE

NATURE OF CASE

06-1456

Lin v. Gonzales

IMMIGRATION. Forcible insertion of IUD for population control; other issues.

06-1509

Sherwood Brands Inc v. Levie
(Bennett)

CONTRACT LAW. Numerous issues relating to negotiation and terms of merger agreement.

06-1714

Friends of the Earth v. Gaston Copper
(Perry)

CIVIL PROCEDURE. Whether defendant's post-trial motion was sufficiently specific to qualify as a timely F.R.C.P. 52(b) or 59(e) motion tolling the appeal period; other issues.

07-1056

Perdue Farms v. Design Build
(Mullen)

CONTRACT LAW. Whether arbitration of dispute not mediated was required by the terms of the contract.

PANEL II
COURTROOM TWO
Courthouse Room 201 (Green Carpet)
9:30 a.m.

TUESDAY, OCTOBER 30, 2007

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT
Richmond, Virginia
(10/30/2007 - 11/02/2007 Session)

NUMBER AND STYLE

NATURE OF CASE

06-4435 (L), 06-4436 06-4437 06-4451 06-4452 06-4453

US v. Michael D. Jackson
(Houck)

CRIMINAL. Whether sentences are unreasonable where variance is based upon loss of medical licenses, financial ruin and low risk of recidivism; other issues.

06-4338 (L), 06-4812 06-4883

US v. Singh, Patel, et al
(Broadwater)

CRIMINAL. Whether motel room payments by prostitutes using funds from customers constitutes money laundering; other issues.

06-2127

Ashley v. NLRB
(Osteen)

LABOR. Employees' standing to assert claims of procedural due process; jurisdiction issues.

06-4997

US v. Ali Asad Chandia
(Hilton)

CRIMINAL LAW & PROCEDURE. Numerous challenges to defendant's conviction and sentence for conspiracy to provide material support and resources to terrorists and to a designated foreign terrorist organization.

PANEL III
COURTROOM THREE
Courthouse Room 223 (Tan Carpet)
9:30 a.m.

TUESDAY, OCTOBER 30, 2007

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT
Richmond, Virginia
(10/30/2007 - 11/02/2007 Session)

NUMBER AND STYLE

06-2082

Burlington Insurance v. Trygg Hansa Ins Co
(Osteen)

05-2343 (L), 06-1160

Rivas v. Gonzales

NATURE OF CASE

ARBITRATION LAW. Whether award issued by arbitration panel was ambiguous; whether either the district court or the arbitration panel exceeded its authority under the Act.

IMMIGRATION. Whether Board erred in concluding property damage conviction was a crime of violence under 18 U.S.C. Section 16.

PANEL IV
COURTROOM FOUR
Courthouse Room 414-D (Tweed Carpet)
9:30 a.m.

TUESDAY, OCTOBER 30, 2007

REVD 10/29/07

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT
Richmond, Virginia
(10/30/2007 - 11/02/2007 Session)

NUMBER AND STYLE

06-7427
Al-Marri v. Wright
(Floyd)

NATURE OF CASE

Rehearing en banc.

WEDNESDAY, OCTOBER 31, 2007

COURTROOM TWO
Courthouse Room 201 (Green Carpet)
9:00 a.m.

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT
Richmond, Virginia
(10/30/2007 - 11/02/2007 Session)

NUMBER AND STYLE

06-1781
Davani v. Clement
(Hilton)

06-2131
State of NC v. Tennessee Valley Aut
(Thornburg)

06-2248
Gariety v. Thornton
(Faber)

NATURE OF CASE

TITLE VII. Whether the district court properly applied
collateral estoppel; other issues.

NUISANCE LAW. Whether this nuisance lawsuit against a
government agency is precluded by the discretionary
function doctrine, the Supremacy Clause, or by Ferris v.
Wilbur.

UNJUST ENRICHMENT. Whether summary judgment was appropriate
on claims of unjust enrichment; does West Virginia
recognize innocent beneficiary doctrine.

PANEL I
COURTROOM ONE
Courthouse Room 412 (Red Carpet)
Beginning at conclusion
of en banc rehearings

WEDNESDAY, OCTOBER 31, 2007

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT
Richmond, Virginia
(10/30/2007 - 11/02/2007 Session)

NUMBER AND STYLE

NATURE OF CASE

06-25

Bowie v. Branker
(Whitney)

HABEAS CORPUS. Numerous issues arising out of state
capital murder conviction and sentencing.

06-4987

US v. Sean C. Osborne
(Jones)

CRIMINAL LAW & PROCEDURE. Whether district court erred by
enhancing defendant's offense level under the United States
Sentencing Guidelines for abduction; other issues.

06-2112

Marshall, et al v. Bert Bell/Pete Rozel
(Lee)

ERISA. Did the plan abuse its discretion in determining the
date that claimant's disability commenced on reapplication
by reference to medical evidence used to terminate benefits
previously awarded.

PANEL II
COURTROOM TWO
Courthouse Room 201 (Green Carpet)
Beginning at conclusion
of en banc rehearings

WEDNESDAY, OCTOBER 31, 2007

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT
Richmond, Virginia
(10/30/2007 - 11/02/2007 Session)

NUMBER AND STYLE

06-2085
Bosiger v. US Airways Inc
(Lee)

06-1658 (L), 06-1717
Mastec North America v. NextiraOne Federal
(Brinkema)

NATURE OF CASE

ERISA. Whether district court properly dismissed claim;
effect of bankruptcy on plan; other issues.

CONTRACT LAW. Whether under federal contracting law default
termination was proper; other issues.

PANEL III
COURTROOM THREE
Courthouse Room 223 (Tan Carpet)
Beginning at conclusion
of en banc rehearings

WEDNESDAY, OCTOBER 31, 2007

REVD 10/30/07

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT
Richmond, Virginia
(10/30/2007 - 11/02/2007 Session)

NUMBER AND STYLE

NATURE OF CASE

06-2115

Adams v. Village of Wesley
(Conrad)

CONSTITUTIONAL LAW. Numerous issues regarding adverse
zoning ordinance subsequent to voluntary annexation.

06-4532 (L), 06-4603

US v. George Keith Martin
(Keeley)

CRIMINAL LAW & PROCEDURE. Sufficiency of evidence; jury
instructions; sentencing issues.

07-1084

Barclay White v. Battelle Mem Inst
(Bennett)

CONTRACT LAW. Whether breach of contract claims were
properly interpreted.

PANEL IV
COURTROOM FOUR
Courthouse Room 414-D (Tweed Carpet)
Beginning at conclusion
of en banc rehearings

WEDNESDAY, OCTOBER 31, 2007

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT
Richmond, Virginia
(10/30/2007 - 11/02/2007 Session)

NUMBER AND STYLE

NATURE OF CASE

06-4985

US v. Ernie Embree
(Jones)

CRIMINAL LAW & PROCEDURE. Whether government breached plea agreement by arguing for enhancement that rendered defendant ineligible for safety valve reduction.

06-4796

US v. Charles L. Varner
(Wilson)

CRIMINAL LAW & PROCEDURE. Whether the district court erred in determining that the seizure and destruction of evidence by federal agents did not violate appellant's constitutional rights; other issues.

07-1013

Maersk Line, Limited v. United States
(Smith)

MARITIME LAW. Whether ocean carrier's liability should be capped under Carriage of Goods by Sea Act for damage to military aircraft loader.

06-2304

Saintha v. Gonzales

IMMIGRATION. Whether petitioner is eligible to seek a waiver of inadmissibility pursuant to 8 U.S.C. Section 1159(c).

PANEL I
COURTROOM ONE
Courthouse Room 412 (Red Carpet)
9:30 a.m.

THURSDAY, NOVEMBER 1, 2007

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT
Richmond, Virginia
(10/30/2007 - 11/02/2007 Session)

NUMBER AND STYLE

NATURE OF CASE

06-1939

Livingston v. Wyeth Inc
(Sharp)

WRONGFUL DISCHARGE. Whether there were genuine issues of material fact precluding summary judgment.

03-1821 (L), 04-1255

Richmond Medical Ctr v. Herring
(Williams)

CONSTITUTIONAL LAW. Challenge to the constitutionality of state's Partial Birth Infanticide statute.

06-2031

St. Paul Fire v. Wittman Mechanical
(Kelley)

CONTRACT LAW. Did the district court err in interpreting the express warranty contained in the contract and in granting plaintiff's motion for judgment as a matter of law.

06-2044

Sloane v. Equifax Information
(Brinkema)

FAIR CREDIT REPORTING ACT. Whether action is barred by single satisfaction rule; whether receipt of other settlement amounts should count as a credit; damages and attorney's fees issues.

PANEL II
COURTROOM TWO
Courthouse Room 201 (Green Carpet)
9:30 a.m.

THURSDAY, NOVEMBER 1, 2007

REVD 8/30/07

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT
Richmond, Virginia
(10/30/2007 - 11/02/2007 Session)

NUMBER AND STYLE

07-9
Green v. Johnson
(Smith)

06-2252
Evans v. Eaton Corp Long Term
(Herlong)

06-2097 (L), 06-2099 06-2124
Sensormatic Security v. Sensormatic Electr.
(Chasanow)

NATURE OF CASE

HABEAS CORPUS. Numerous issues arising out of state
capital murder conviction and sentencing.

ERISA. Whether Plan Administrator's decision to deny
continuation of long term disability benefits was an abuse
of discretion.

CONTRACT LAW. Whether exclusive franchise agreement was
breached; other issues.

PANEL III
COURTROOM THREE
Courthouse Room 223 (Tan Carpet)
9:30 a.m.

THURSDAY, NOVEMBER 1, 2007

REVD 10/26/07

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT
Richmond, Virginia
(10/30/2007 - 11/02/2007 Session)

NUMBER AND STYLE

NATURE OF CASE

06-2260

Phoenix Renovation v. Rodriguez
(Cacheris)

COPYRIGHT LAW. Whether plaintiff was entitled to damages
for copyright infringement; other issues related to
proprietary information and non-compete clause.

06-2279

Penn-American Ins Co v. Mapp
(Morgan)

INSURANCE LAW. Whether delayed notification precludes
coverage; whether liquor liability exclusion applies;
whether declaratory judgment regarding duty to indemnify is
premature.

06-2134

Gallo v. US Investigation
(Hilton)

CIVIL. Whether distict court erred in granting defendant's
motions to strike jury demand and for summary judgment on
Title VII and breach of contract claims.

PANEL IV
COURTROOM FOUR
Courthouse Room 414-D (Tweed Carpet)
9:30 a.m.

THURSDAY, NOVEMBER 1, 2007

REVD 10/18/07

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT
Richmond, Virginia
(10/30/2007 - 11/02/2007 Session)

NUMBER AND STYLE

04-4223 (L), 04-4231 04-4232 04-4277
US v. Franklin E. Woods
(Moon)

06-5073
US v. Reaves
(Quarles)

06-2015
Doe v. Chao
(Williams)

06-5181
US v. Benyo et als.
(Kelley)

NATURE OF CASE

CRIMINAL LAW & PROCEDURE. Jury instructions; mandatory minimum sentence under 18 U.S.C. Section 924(c); other issues.

FOURTH AMENDMENT. Whether anonymous tip had sufficient indicia of reliability; other issue.

PRIVACY ACT. Whether the attorneys' fees awarded by the district court are appropriate.

CRIMINAL LAW & PROCEDURE. Whether securities fraud count was properly dismissed for lack of venue.

PANEL I
COURTROOM ONE
Courthouse Room 412 (Red Carpet)
8:30 a.m.

FRIDAY, NOVEMBER 2, 2007

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT
Richmond, Virginia
(10/30/2007 - 11/02/2007 Session)

NUMBER AND STYLE

05-4602 (L), 05-4603 05-4604 05-4605 05-4616
US v. Robert M. Brooks
(Anderson)

06-2142 (L), 06-2222
Caterpillar Fin Svc v. F/V Site Clearance I
(Boyle)

06-4836
US v. Arthur Brewer
(Cacheris)

06-4922
US v. Terrell Randolph
(Payne)

NATURE OF CASE

SENTENCING. Whether appellant Mathis' Sixth Amendment rights were violated as a result of the thirty-year sentence; related issues.

ADMIRALTY. Issues concerning standing and exercise of in rem jurisdiction in connection with sale of fishing permits.

SENTENCING. Whether district court adequately considered defendant's mental retardation in imposing sentence.

CRIMINAL LAW & PROCEDURE. Whether district court erred by denying motion to suppress evidence.

PANEL II
COURTROOM TWO
Courthouse Room 201 (Green Carpet)
8:30 a.m.

FRIDAY, NOVEMBER 2, 2007

REVD 10/26/07

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT
Richmond, Virginia
(10/30/2007 - 11/02/2007 Session)

NUMBER AND STYLE

NATURE OF CASE

06-4728

US v. Thomas E. Smolka
(Payne)

CRIMINAL LAW & PROCEDURE. Whether district court erred in denying motion to dismiss for vindictive prosecution and motion to recuse; sentencing issues.

06-4506 (L), 06-4507

US v. James D. Delfino
(Payne)

CRIMINAL LAW & PROCEDURE. Whether district court erred in determining tax loss amount for sentencing; other issues.

05-4733

US v. Haydar B. Sadig
(Voorhees)

CRIMINAL LAW & PROCEDURE. Whether defendant charged with making false statements in connection with naturalization proceeding is entitled to jury instruction explaining that applicant for naturalization has no duty to volunteer information during INS interview.

PANEL III
COURTROOM THREE
Courthouse Room 223 (Tan Carpet)
8:30 a.m.

FRIDAY, NOVEMBER 2, 2007

REVD 10/26/07

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT
Richmond, Virginia
(10/30/2007 - 11/02/2007 Session)

NUMBER AND STYLE

NATURE OF CASE

06-2242

Waytec Electronics v. Rohm and Haas Elec
(Wilson)

FRAUD/WARRANTY LAW. Whether defendants complied with removal statute; evidentiary issues; whether fraud claims were properly stricken whether warranty claims were properly dismissed.

06-4789

US v. Ulysses Ray Evans
(Dever)

SENTENCING. Whether imposition and extent of upward departures under USSG Sections 2B1.1 and 4A1.3 were reasonable where departures increased top of advisory guideline range by over 400%.

06-5115

US v. Christopher Turner
(Howard)

SENTENCING. Whether district court may consider evidence of rehabilitation after first sentencing hearing at resentencing hearing following Booker remand.

07-4126

US v. Pedro Sosa-Sauceda
(Whitney)

CRIMINAL LAW & PROCEDURE. Whether district court had subject-matter jurisdiction over supervised release revocation proceeding; whether right to allocution applies in revocation proceedings.

PANEL IV
COURTROOM FOUR
Courthouse Room 414-D (Tweed Carpet)
8:30 a.m.

FRIDAY, NOVEMBER 2, 2007